IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2986 OF 2006
IN
FIRST APPEAL ST.NO.13553 OF 2006

Abdul Rauf Khan and Anr. ...Applicants
vs.
1.Kitabulla Inayatulla
2.Brihanmumbai Municipal Corporation
of Greater Bombay ...Respondents

CORAM: A.S.OKA, J.
DATED: AUGUST 7, 2006.

P.C.:

1. Heard Advocates for the parties. The operative part of the decree passed by the Trial Court reads thus :

"1) The Corporation is directed to look into the grievance of the Plaintiff made against the Defendant Nos.1 and 2 in the plaint by looking into the documents annexed therein and if the corporation, prima facie comes to the conclusion that appropriate notice under law is required to be issued, they will be at liberty to issue such notice to the Defendants Nos.1 and 2 and follow due process of law;

2) The Corporation is directed to look into the complaint of the Plaintiff within four weeks from today and communicate their decision to the Plaintiff.

3) Liberty to the Plaintiff to agitate his claim, if any adverse order is passed by the Corporation.

4) Liberty to the Plaintiff under Order-II, Rule-2 to file appropriate suit for claiming mesne profit as well as declaration that defendant Nos.1 and 2 are trespassers, as the Plaintiff has not pressed this relief in the present suit;

5) In the meantime, protection granted by this court protecting the defendant Nos.1 and 2 not to encroach upon any other portion or land within possession sublet, transfer, alienate in respect of suit structure put up by the defendants No.1 and 2 is extended until eight weeks from today."

2. Shri Rege for the Applicants pointed out that notice under section 351 of the Mumbai Municipal Corporation Act, 1888 was issued by the Mumbai Municipal Corporation and after considering the reply filed by the Applicants, the order of demolition has been passed on 28th July 2006.

3. It is for the Applicants to challenge the said notice and order dated 28th July 2006 by filing appropriate proceedings. No case is made out for grant of interim relief.

4. Subject to observation made above, Application is rejected.

Judge.